



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

IN THE MATTER OF ENFORCEMENT)	PDC CASE NO: 02-286
ACTION AGAINST)	
)	Notice of Administrative
Don Bivens, Fire Chief, Vancouver Fire)	Charges
Department)	
)	
Marilyn Westlake, Education Outreach)	
Coordinator, Vancouver Fire Department)	
)	
Marty James, Administrator, Clark County)	
Fire District 5)	
)	
Respondents.)	

IT IS ALLEGED as follows:

I. JURISDICTION

Jurisdiction of this proceeding is based on Chapter 42.17 RCW, the Public Disclosure Act, Chapter 34.05, Administrative Procedure Act, and Title 390 WAC.

II. LAW

RCW 42.17.130 states in part: "No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency and clientele lists of persons served by the office or agency..."

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WAC 390-05-271(2) states in part: "RCW 42.17.130 does not prevent a public office or agency from (a) making facilities available on a nondiscriminatory, equal access basis for political uses ... if such action is part of the normal and regular conduct of the office or agency."

III. BACKGROUND

1. On January 30, 2002, the Public Disclosure Commission received a complaint from Kelly Hinton alleging that officials of the City of Vancouver had used the facilities of the Vancouver Fire Department to support a February 5, 2002 Emergency Medical Services (EMS) levy. The complaint also alleged that city officials had used public facilities to support the levy election by posting promotional material on the city's web site and by developing a business plan to promote the levy election. The levy proposition was defeated on February 5, 2002. Respondent Don Bivens is the Fire Chief for the Vancouver Fire Department, and Respondent Marilyn Westlake is the Education Outreach Coordinator for the Vancouver Fire Department.

2. The Vancouver Fire Department and Clark County Fire District 5 consolidated operations in 1994. Clark County Fire District 5 has one administrator, Respondent Marty James, and a board of Fire Commissioners. Clark County Fire District 5 has independent taxing authority and contracts with the Vancouver Fire Department for its fire services. Clark County Fire District 5 placed a companion EMS levy on the February 5, 2002 ballot that also failed.

3. Following the defeat of the February 5, 2002 EMS levies, Clark County Fire District 5 ran a levy in September 2002 that was also defeated. In the summer of 2003, the Vancouver Fire Department finalized plans to begin construction of one new fire station.

IV. FACTS

These charges incorporate the Report of Investigation, all of its exhibits, the Addendum to the Report of Investigation and all of its exhibits by reference.

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1. Vancouver Fire Department Business Plan – On January 24, 2001, Pat McDonnell, the Vancouver City Manager, asked all city departments to develop a Business Plan. The Parks, Police and Fire Departments were instructed to complete their respective Business Plan in 2001. The Vancouver Fire Department formally presented its Business Plan to the City Council on August 27, 2001. One of the main purposes of the Business Plan was to create a “communications vehicle” to educate the citizens of Vancouver about how business processes are examined and prioritized. The Business Plan was also designed to provide a consistent context for the city manager and city council to make policy decisions about programs and services, and to be a tool for department level business managers to critically analyze their major business practices.

2. There was a concerted effort by the Vancouver Fire Department to get the public and Vancouver City Council to understand the Fire Department’s services, and to gain community support for its mission and programs. The Business Plan studied the kinds of programs and services being provided, and the impact of growth on program services. The Fire Department Business Plan did not detail funding sources, such as the EMS levy that was later placed on the February 5, 2002 ballot. However, as a result of the needs and possible solutions identified by the Business Plan, funding sources were developed and discussed with the Vancouver City Council and the Board of Fire Commissioners for Clark County Fire District 5, each of which voted to place the EMS levy on the February 5, 2002 ballot. Based on the needs identified in the Business Plan, the Vancouver Fire Department recommended an EMS levy to:

- Purchase three light-duty rescue vehicles with a two paramedic staff;
- Build two new fire stations; and
- Add staff for the vehicles and new fire stations.

The cost of the proposed levy was 50 cents per \$1,000 of assessed valuation for a six year period to generate approximately \$6,250,000 per year for a total of \$37,500,000 over the six year period of the levy.

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3. In accordance with the Business Plan, the Vancouver Fire Department developed a comprehensive Communications Plan to educate the community about the increased demand for fire services, and to demonstrate to the community the need for an EMS levy as the funding source for making the proposed changes. The Communications Plan was authorized by Chief Bivens and implemented by Ms. Westlake. Based on the Business Plan, Ms. Westlake developed three major ways to communicate to the public the needs of the Fire District and the importance of passing the EMS levy. Ms. Westlake:

- Produced three Lifeline Newsletters;
- Updated and enhanced the Fire District's website with information about the Fire District and the EMS levy;
- Supervised the creation of a draft informational video depicting recent Fire District activities, including footage of Emergency Medical Services activities;

In addition, Chief Bivens made community presentations and issued News Releases.

Chief Bivens, on behalf of the Vancouver Fire Department, and Mr. James, on behalf of Clark County Fire District 5, approved the three Lifeline Newsletters.

4. Mr. James stated that prior to the February 5, 2002 EMS levy election, Clark County Fire District 5 had approximately \$2 million in reserve that had been targeted to build a fire station. He said the money was given to the City of Vancouver and put in an escrow account for that purpose. The City of Vancouver confirmed that the balance in reserve in February 2002 was \$1,740,000. The Vancouver Fire Department stated in a Summer 2003 Lifeline newsletter that plans were moving forward to build a new 8,000 square foot fire station.

Following is a summary of the activities undertaken by Chief Bivens, Ms. Westlake and Mr. James preceding the February 5, 2002 EMS levy election.

5. The Lifeline Newsletters were planned as a group of three to:

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- Bring attention to the perceived needs of the Vancouver Fire Department and explain that a study would be done in the near future to assess the extent of the needs;
- Describe the results of the Fire Department Business Plan that assessed the needs of the Fire Department, to provide details of the problem, and to present a solution by outlining what equipment, buildings and staff would be needed. The second Newsletter was also to inform the reader that a specific funding source would be forthcoming in the third Newsletter that could include an EMS levy; and
- Highlight the need and the solution, including the details of the EMS levy.

6. The Vancouver Fire Department and Clark County Fire District 5 began producing the *Lifeline* newsletter in the summer of 2001. Prior to the February 5, 2002 EMS levy election, they produced three issues - Summer 2001, Fall 2001 and Winter 2002. Since the election, the *Lifeline* newsletter has only been printed one time, in July 2003. The July 2003 newsletter included an article entitled "Station 87 inches towards reality" stating that plans were moving forward for a new 8,000 square foot fire station. In September 2001, Clark County Fire District 5 also produced a newsletter entitled News at 5. The newsletter contained an article entitled "Looking forward..." that described how due to vigorous growth, a new fire station was on the drawing board. Since the February 5, 2002 EMS levy election, Fire District 5 has produced News at 5 one time, in March 2003. This newsletter included an article entitled "Status of new fire station: on hold" which stated that building a new station was on hold because of the failure of an EMS levy in the fall of 2002. The three *Lifeline* newsletters produced before the EMS levy election were distributed to residents within the City of Vancouver and the boundaries of Clark County Fire District 5. Chief Bivens, on behalf of the Vancouver Fire Department and Mr. James, on behalf of Clark County Fire District 5, jointly approved the content of the three newsletters. Clark County Fire District 5 paid for the Summer 2001 and Winter 2002 newsletters and the Vancouver Fire Department paid for the Fall 2001 newsletter. The dates of distribution and cost for the three newsletters were as follows:

- Summer 2001 – Distributed on June 29, 2001 at a cost of \$21,392 plus 20 hours of staff time valued at \$480.
- Fall 2001 – Distributed on September 12, 2001 at a cost of \$19,883 plus 20 hours of staff time valued at \$480.
- Winter 2002 – Distributed January 14, 2002 at a cost of \$19,911 plus 20 hours of staff time valued at \$480.

7. The total cost of the newsletters was \$61,186, excluding staff time. The Vancouver Fire Department paid for \$19,883 and Clark County Fire District 5 paid for \$41,303. Staff time of the Vancouver Fire Department to produce the newsletters was valued at \$1,440.

8. Content of Summer 2001 Lifeline Newsletter – The Summer 2001 Lifeline newsletter included a description of the specialized services provided by the consolidated fire department, a map of the consolidated jurisdiction, employee photographs, and a letter from Chief Bivens. The letter described the services being provided despite the ***“hard blows that rapid growth has dealt to the Vancouver Fire Department.”*** The brochure included, in large red type, ***“...our long tradition of quality service is being threatened...”*** The letter continued to explain how ***“community needs have changed dramatically.”*** Chief Bivens stated that 80 percent of emergency responses are for Emergency Medical Service (EMS). The newsletter also stated, ***“The tragedy of fire is never far away... Fires, explosions, and other emergencies will continue to tap our resources as the community’s needs continue to grow and change.”*** Chief Bivens stated how the Vancouver Fire Department would be studying its needs and creating a Business Plan to assess public needs over the next decade.

9. Content of the Fall 2001 Lifeline Newsletter – The cover of the Fall 2001 Lifeline newsletter included a photograph of firefighters giving emergency medical aid to a trauma victim. In a letter to the people, Chief Bivens tied the fire department’s business plan, described as “eight months of rigorous research and analysis” to what the EMS levy would purchase (three light-duty rescue units, two new fire stations, and additional staff). He called the request

necessary "catch-up provisions" that would cost from \$2.5 to \$6 million in each of the next three years. Chief Bivens reminded readers that a third newsletter would be forthcoming in which funding would be discussed, which could include placing an EMS levy before the voters in the winter. He also emphasized that the fire department needed to act quickly to regain the ground it had lost over the past several years. In large red type, the newsletter stated, **"...research showed that one out of six times, the closest unit is unable to respond..."** The Fall newsletter also directed readers to the fire department's web site.

10. Content of the Winter 2002 Lifeline Newsletter – The Winter 2002 Lifeline newsletter was considered by the Vancouver Fire Department and Clark County Fire District 5 to be the fact sheet for the EMS levy. The newsletter was sent to residents in the consolidated fire service area. The front page of the newsletter depicted a victim receiving emergency medical services and had the title, *"Emergency Medical Services and EMS LEVY Feb.5."*

11. The back of the newsletter had EMS in large red type with the words **Emergency Medical Services** and the statement, ***"Levy is Feb. 5, 2002. Mail ballots must be postmarked by Feb. 5."*** The newsletter contained a letter from Chief Bivens that said, **"In two earlier letters to you, I've expressed my concern about the diminishing ability of the fire department to meet your needs. Also bolded was the statement, "Last year, EMS calls made up over 83 percent of our 20,000 + calls for help."** In addition to describing how levy funds would be used and the cost of the levy, the newsletter also highlighted the fire department's web site address.

12. Fact Sheet – In addition to the Lifeline newsletters, Chief Bivens authorized producing an additional fact sheet that was made available for distribution to patrons at the fire stations beginning December 7, 2001. The fact sheet was also used as a reference to answer questions from the community. The fact sheet emphasized the high volume of emergency calls, the increased service area and population, and stated that the ten largest fire departments in the state, except for the consolidated area of the City of Vancouver and Clark County Fire District 5, all relied on special levies or outside revenue to fund Emergency Medical Services.

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13. Vancouver Fire Department Web Site – The fire department's web site contained multiple pages that highlighted the EMS levy prior to the election. One page entitled, "Every Second Counts" included the following statement: *"On heart attack calls: If firefighters don't arrive in four minutes or less, the chances of saving a heart attack patient declines."* It goes on to say, *"Last year ... the Vancouver Fire Department went on 1,771 heart attack calls. Firefighters arrived within 4 minutes just 38 percent of the time. Why? Because Fire Department resources haven't kept pace with growth in the community. A proposed EMS levy would help address the problem by funding three quick response vehicles to help firefighter-EMTs and paramedics get there faster."*

14. Another page on the web site entitled "Fire Department Business Plan" contained a link to a separate December 7, 2001 fact sheet about the levy. The web page also used the following language: *"Gallop growth over the past two decades has overwhelmed and exceeded the capacity of the Vancouver Fire Department... Resources have remained static... At the same time community demands changed substantially. Call volume grew exponentially. And, critical response times decayed to levels inconsistent with other cities of similar size."*

15. Another page on the web site entitled "Two-alarm fire Nov. 14, 2001" included the following statements: *"A serious two-alarm apartment fire at 4408 Gibbons Street consumed all of the VFD's firefighting/Emergency medical Services resources for several hours early Wednesday evening. Once again, crews from neighboring fire districts had to step in to try to cover other emergency calls... This frustrating condition is summed up by Chief Scott, 'It's happening more and more often – about monthly – where we can't handle our calls. It's an unsafe situation for both the taxpayers and the firefighters.' "* ... *"The VFD, together with Clark County Fire District 5, will conduct a Fire-Emergency Medical Services (EMS) levy Feb. 5, 2002 to raise dedicated funds for: three new EMS rescue units; two new fire stations; and catch-up provisions to meet safety, training and staffing needs."*

The Fire Department Web Site also contained copies of the three Lifeline newsletters.

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16. News Releases – Chief Bivens authorized the Vancouver Fire Department to issue two news releases, one on December 14, 2001 and one on February 5, 2002, the day of the levy election. On December 14, 2001, the fire department issued a news release entitled, *"A 'Slice of American Pie' for Vancouver Firefighters."* The news release highlighted an effort by a citizen, Betty Lane, who sold pies to raise money for the Vancouver Fire Department. The news release was posted to the Vancouver Fire Department's web site on December 14, 2001. On December 20, 2001, Ms. Lane donated the money she had raised to the "Yes for Fire-EMS" levy committee. Neither Ms. Westlake, who volunteered for the levy committee and who was responsible for the Vancouver Fire Department website, nor Chief Bivens, who also volunteered for the levy committee, had the new release removed from the Vancouver Fire Department's web site once it became clear that Ms. Lane had made a campaign contribution, even though the news release encouraged people to support the efforts of the "Yes for Fire-EMS" levy committee.

17. On February 5, 2002, the day of the levy election, a news release was issued pursuant to Chief Bivens authorization to publicize the number of emergency calls in 2001. The news release included the statement, *"Rising system demand in 2001 has further slowed fire department response times."* This was followed by a statement from Chief Bivens, who said, *"This is a cause for concern because quick response is critical to meet our basic role, which is to safeguard lives and property."*

18. Use of City Vehicle – Chief Bivens drove his City vehicle to conduct official city business with American Medical Response, an organization authorized to provide emergency transportation services in life threatening situations. At that meeting, Chief Bivens solicited a campaign contribution for the levy committee. On January 28, 2002, "Yes for Fire-EMS" received a \$2,500 contribution from American Medical Response.

19. Chief Bivens stored campaign materials in his Vancouver Fire Department vehicle, and on two occasions distributed the material to off-duty fire fighters who had volunteered to work

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phone bank operations for the levy committee. Chief Bivens passed out this material to levy campaign workers while he was on duty with the Vancouver Fire Department.

20. Use of Telephone and Computer, and Authorizing Use of Office Space for Campaign Purposes – Chief Bivens contacted levy campaign workers using his Vancouver Fire Department telephone on several occasions to discuss campaign related activities. Chief Bivens stated that he contacted Mike Worthy and Bob Knight, Co-Chairs of the “Yes for Fire-EMS” levy committee, and Marty James, Administrator for Clark County Fire District 5, who volunteered for the levy committee.

21. Chief Bivens conducted levy campaign work by using his Vancouver Fire Department computer to connect to his personal home e-mail account and to send levy campaign e-mails. Chief Bivens stated that this was done on approximately six occasions. He provided a copy of a levy campaign e-mail sent November 29, 2001 from his Vancouver Fire Department computer to four individuals.

22. Between December 2001 and January 2002, Chief Bivens authorized Richard Curtis, a fire captain in the Vancouver Fire Department, to store campaign materials in the fire captain’s office.

23. Use of Computer for Campaign Purposes by Marilyn Westlake – Ms. Westlake, who in addition to being the Outreach Education Coordinator for the Vancouver Fire Department was a volunteer for the “Yes for Fire-EMS” levy committee, admitted that she used her Vancouver Fire Department computer and printer to create a campaign brochure in support of the EMS levy campaign.

24. Vancouver Fire Department Video Footage Used by Levy Committee - In the spring of 2001, Chief Bivens directed Ms. Westlake to coordinate the development of a Fire Department Informational Video for use in making presentations to the public about fire department activities. In June 2001, Ms. Westlake contacted Jim Demmon, Manager of the City/County government

cable access (CVTV – Channel 49) to produce the video. Ms. Westlake gave Mr. Demmon a copy of a Power-Point presentation to assist him in writing the script. Mr. Demmon understood that Ms. Westlake wanted the video by the end of the summer, so rather than assign out the work, he wrote the script himself. The script was given to Ms. Westlake on June 26, 2001. She reviewed the script, along with existing video footage of fire department activities, and told Mr. Demmon that new video footage was needed.

25. Mr. Demmon then assigned the project to Video Producer Steve Harris, and in late July and early August, additional video footage was taped. Without receiving feedback, Mr. Demmon created a “rough cut” of the video and gave it to Ms. Westlake on September 10, 2001. Mr. Demmon, along with one other staff member, spent 84 hours on the project at a cost of \$1,482.72. The draft video was approximately two to three minutes in length and contained updated shots of EMS paramedic equipment and fire department personnel and trucks, with voice-over descriptions of fire department services and average response times. Ms. Westlake did not provide additional feedback to Mr. Demmon or request that a finished informational video be produced. The Fire Department Informational Video has not been finished.

26. Chief Bivens was an active member and media contact for “Yes for Fire-EMS”, a political committee formed to support passage of the February 5, 2002 EMS levy. In December 2001, Chief Bivens suggested to Jeff Williams, a media consultant for the levy committee, that he contact Ms. Westlake, who was also a campaign volunteer for the levy committee, to learn the details of the availability of fire district video footage for use in producing a TV commercial for the levy committee. In early January 2002, Mr. Williams contacted CVTV and made a public records request for the video material. Mr. Demmon provided video footage to Mr. Williams that had been prepared for the fire department’s informational video, including “B roll footage” typically used with voice-overs in video production. After Mr. Williams reviewed the existing footage, he requested and received specific footage, based on his needs. CVTV staff stated that they routinely make copies of the specific footage requested by members of the public. Ms.

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Westlake discussed the video footage with Mr. Williams during her off-duty time. The campaign committee then created a TV commercial using the video footage. The footage included Vancouver Fire Department equipment and personnel engaged in a variety of staged fire department related activities. Mr. Williams estimated that it would have cost the levy campaign approximately \$20,000 to produce the same video without the stock footage provided by CVTV.

27. The video footage was not readily available to the general public as a finished product listed in the CVTV database. In addition, the footage was not listed as stock footage in the stock footage database of CVTV. Vancouver Fire Department officials, including Chief Bivens, Ms. Westlake and the CVTV employees working on the project, were uniquely aware that the project was an unfinished work-in-progress. CVTV officials stated that the video footage would have been given to anyone requesting it. However, because of the unfinished nature of the project, its absence from the CVTV databases, and the public's lack of awareness of the project, there is no equal access to the video footage as contemplated by WAC 390-05-271(2)(a).

IV. ALLEGATIONS

Don Bivens - Staff alleges, based on the facts specified in Section IV, that Don Bivens, Fire Chief for the Vancouver Fire Department, violated RCW 42.17.130 on multiple occasions as follows:

1. By authorizing the production, and approving the content, of three Lifeline Newsletters and a fact sheet that as a group promoted the February 5, 2002 levy election for the Consolidated Fire Service Area of the Vancouver Fire Department and Clark County Fire District 5. The three newsletters were distributed at a cost of \$61,186. The City of Vancouver paid for \$19,883 of the cost. Staff time of the Vancouver Fire Department to produce the newsletters was valued at \$1,440. The newsletters and fact sheet were not a fair and objective presentation of the facts. They contained promotional statements and inflammatory images. The violation is supported by the following:

- The three newsletters that were distributed in the Summer of 2001, Fall of 2001 and Winter of 2002, and the fact sheet that was made available for distribution to patrons at the fire stations beginning December 7, 2001 did not explain that the Vancouver Fire Department and Clark County Fire District 5 had approximately \$2 million in reserve (\$1,740,000) that had been targeted to build a fire station.
 - The newsletters and fact sheet did not inform the reader that the proposed cost of 50 cents per \$1,000 of assessed valuation would generate approximately \$6,250,000 per year for a total of \$37,500,000 over the six year period of the levy.
 - The newsletters and fact sheet did not address what combination of internal changes, program cuts, and/or service level changes would be needed if the levy failed. Instead, the material emphasized the high volume of emergency calls, the increased service area and population, and in the case of the fact sheet, that the ten largest fire departments in the state, except for the consolidated fire service area of the Vancouver Fire Department and Clark County Fire District 5, all relied on special levies or outside revenue to fund Emergency Medical Services.
2. By authorizing two news releases that promoted passage of the February 5, 2002 levy.
- The violation is supported by the following:
- The first news release was issued on December 14, 2001 and highlighted a fundraising effort on behalf of the "Yes for Fire-EMS" levy committee.
 - The second news release publicized the number of emergency calls in 2001. Even though the data on emergency calls was made available to the Vancouver Fire Department on January 10, 2002, the press release was not issued until February 5, 2002, the day of the election.
3. By using his Vancouver Fire Department vehicle and on-duty time to solicit a campaign contribution for the "Yes for Fire-EMS" levy committee from American Medical Response while attending a meeting on behalf of the Vancouver Fire Department.

4. By using his Vancouver Fire Department vehicle to store levy campaign materials, and handing out the materials to campaign volunteers while on duty.
5. By using his Vancouver Fire Department telephone on several occasions to discuss campaign related activities.
6. By using his Vancouver Fire Department computer to send campaign related e-mails on approximately six occasions.
7. By authorizing a fire captain to store campaign materials in the fire captain's office during the two months that preceded the February 5, 2002 levy election.
8. By using Vancouver Fire Department video footage of firefighter activities for the promotion of the February 5, 2002 levy election. The violation is supported by the following:
 - Chief Bivens informed the "Yes for Fire-EMS" levy committee's media consultant of the availability of Vancouver Fire Department video footage of firefighter activities, and directed the consultant to an employee of the Vancouver Fire Department for further details of how to acquire the video footage through a public records request. The video footage was used to produce a TV commercial for the levy committee.
 - The video footage was part of an unfinished work-in-progress known only to Vancouver Fire Department officials, including Don Bivens, and the employees working on the project. Because of the unfinished nature of the project, its absence from the CVTV Vancouver Cable databases, and the public's lack of awareness of the project, there was not equal access to the video footage.
 - It would have cost the levy committee approximately \$20,000 to produce its video without the Vancouver Fire Department's video footage. Chief Bivens facilitated

the acquisition of the video footage while also serving as an active member and Media Contact for the EMS levy committee.

Marilyn Westlake - Staff alleges, based on the facts specified in Section IV, that Marilyn Westlake, Education Outreach Coordinator for the Vancouver Fire Department, violated RCW 42.17.130 on multiple occasions as follows:

1. By placing material on the Vancouver Fire Department's web site that promoted the February 5, 2002 levy election for the Consolidated Fire Service Area of the Vancouver Fire Department and Clark County Fire District 5. The violation is supported by the following:
 - The material placed on the Vancouver Fire Department's web site contained inflammatory language and emotional images that promoted the passage of the EMS levy, and was not a fair and objective presentation of the facts.
 - One web page was entitled "Every Second Counts" and stated in part: *"On heart attack calls: If firefighters don't arrive in four minutes or less, the chances of saving a heart attack patient declines." ... "A proposed EMS levy would help address the problem by funding three quick response vehicles to help firefighter-EMTs and paramedics get there faster."*
 - Another web page stated in part: *"Gallopig growth over the past two decades has overwhelmed and exceeded the capacity of the Vancouver Fire Department... Resources have remained static... At the same time community demands changed substantially. Call volume grew exponentially. And, critical response times decayed to levels inconsistent with other cities of similar size."*
 - Another page stated in part: *"A serious two-alarm apartment fire at 4408 Gibbons Street consumed all of the VFD's firefighting/Emergency medical Services resources for several hours early Wednesday evening. Once again, crews from neighboring fire districts had to step in to try to cover other emergency calls... This frustrating condition is summed up by Chief Scott, 'It's happening more and*

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more often – about monthly – where we can't handle our calls. It's an unsafe situation for both the taxpayers and the firefighters.' " ... "The VFD, together with Clark County Fire District 5, will conduct a Fire-Emergency Medical Services (EMS) levy Feb. 5, 2002 to raise dedicated funds for: three new EMS rescue units; two new fire stations; and catch-up provisions to meet safety, training and staffing needs."

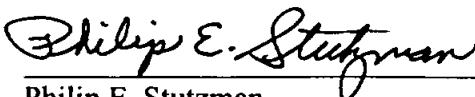
- The Vancouver Fire Department web site also contained copies of the three Lifeline newsletters, the December 7, 2001 fact sheet, and two news releases, all of which contained language that promoted the passage of the February 5, 2002 EMS levy.

2. By using her City of Vancouver computer and printer to create a campaign brochure in support of the EMS levy campaign.

Marty James - Staff alleges, based on the facts specified in Section IV, that Marty James, Administrator, Clark County Fire District 5, violated RCW 42.17.130 on multiple occasions as follows:

1. By authorizing the production, and approving the content, of three Lifeline Newsletters and a fact sheet that as a group promoted the February 5, 2002 levy election for the Consolidated Fire Service Area of the Vancouver Fire Department and Clark County Fire District 5. The three newsletters were distributed at a cost of \$61,186. Clark County Fire District 5 paid for \$41,303 of the cost. The newsletters and fact sheet were not a fair and objective presentation of the facts. They contained promotional statements and inflammatory images.

RESPECTFULLY SUBMITTED this 20th day of December, 2004.



Philip E. Stutzman
Director of Compliance